

ORIGINAL

S E R V E D
December 21, 2006
FEDERAL MARITIME COMMISSION

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WASHINGTON, D. C.

DOCKET NO. 06-07

RITCO INTERNATIONAL, INC.

v.

AIR 7 SEAS TRANSPORT LOGISTICS, INC.

AIR 7 SEAS TRANSPORT LOGISTICS, INC.

v.

SHIPPING CORP. OF INDIA, LTD. (S.C.I. LINE)

ORDER TO SHOW CAUSE WHY COMPLAINT SHOULD NOT BE DISMISSED

Complainant Ritco International, Inc. (Ritco) commenced this action by filing a complaint alleging that Respondent Air 7 Seas Transport Logistics, Inc. (Air 7) violated Section 10(d)(1) of the Shipping Act of 1984 by delivering containers to an incorrect destination, resulting in demurrage and detention charges for Ritco. On October 3, 2006, I issued a Scheduling Order stating, *inter alia*,

Rule 21 permits a party to "appear in person or by an officer, partner, or regular employee of the party, or by or with counsel or other duly qualified representative." 46 C.F.R. § 502.21. Rule 22 provides that "[a]ny individual acting in representative capacity in any proceeding before the Commission may be required to show his or her authority to act in such capacity." 46 C.F.R. § 502.22. At this time, it appears that Ritco and SCI are not represented by counsel or other duly qualified representative, and the authority to act of the persons who have signed pleadings or other papers is not clear from the record. Therefore, each party shall submit a statement setting forth that individual's authority to act.

(Scheduling Order (Oct. 3, 2006)). I also scheduled a telephonic status conference for November 21, 2006. (*Id.*).

On November 21, 2006, the parties appeared before me for a telephonic status conference. Complainant Ritco International, Inc., appeared through Patricia Zglinski. Respondent and third party complainant Air 7 Seas Transport Logistics, Inc., was represented by Christoph Wahner, Esquire, an associate of its attorney Byron E. Countryman. Third-party respondent Shipping Corp. of India, Ltd. (S.C.I. Line) was represented by William H. Collier, Esquire.

When I asked Ms. Zglinski about her authority to appear in a representative capacity, she stated that she was an employee of Ritco, and also stated that had been in contact with an attorney about representation of Ritco and that she should know in approximately one week whether Ritco would be retaining an attorney. Given this representation, I ordered that

on or before November 30, 2006, Ritco International, Inc., file a statement as required by Commission Rule 22 setting forth the authority of Patricia Zglinski to act for it in a representative capacity in this proceeding. See 46 C.F.R. § 502.22. If Ritco International, Inc., retains an attorney who enters an appearance by that date, this order will be vacated.

(Memorandum and Order Regarding the November 21, 2006, Scheduling Conference (Nov. 21, 2006)). I also ordered that the respondents file a joint motion to dismiss on jurisdictional grounds on or before December 21, 2006. (*Id.*).

On December 21, 2006, I received a letter from Ailan Liu, a law clerk in Mr. Collier's law firm, asking that the time to file the joint motion be extended by 30 days since Ritco had not filed the statement required by Rule 22 and my order of November 21, 2006, and no attorney had entered an appearance for Ritco. Because of this failure, counsel for respondents had been unable to discuss with counsel the possibility of resolving the jurisdictional issue voluntarily as contemplated by my order. I understand from personnel in the Commission's Office of the Secretary that since the November 21, 2006, conference, they have had telephone conversations with Ms. Zglinski regarding Ritco's need to comply with the order to file the statement required by Rule 22 or retain an attorney and have the attorney enter an appearance by November 30, 2006. Nevertheless, Ritco has not complied with this order.

A complaint commencing an action before the Commission must be verified, 46 C.F.R. § 502.62(a).

If a party is not represented by a person admitted or qualified to practice before the Commission, each pleading, document or other paper of such party filed with the Commission shall be signed and verified under oath by the party or by a duly authorized officer or agent of the party.

46 C.F.R. § 502.112(b). *See also* 46 C.F.R. § 502.21(a) (“[a] party may appear in person or by an officer, partner, or regular employee of the party”). “Any individual acting in representative capacity

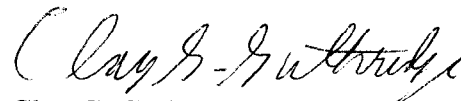
in any proceeding before the Commission may be required to show his or her authority to act in such capacity." 46 C.F.R. § 502.22.

Ms. Zglinski signed the complaint commencing this case. Despite several requests that Ritco demonstrate Ms. Zglinski's authority to act, no statement of her authority to sign the complaint or represent Ritco has been submitted to the Commission. Therefore, the record does not demonstrate that the complaint was properly verified by a person authorized by Rule 62 to sign it. Furthermore, Ritco was specifically ordered to demonstrate Ms. Zglinski's authority or retain an attorney to enter an appearance by November 30, 2006, but has failed to do so.

In consideration of the above facts, it is hereby

ORDERED that on or before January 11, 2007, complainant Ritco International, Inc., show cause why its complaint should not be dismissed for failure to comply with the Rules of the Commission or the orders entered in this case. It is

FURTHER ORDERED that the Order requiring respondents to file a joint motion to dismiss on jurisdictional grounds on or before December 21, 2006, be **VACATED**.


Clay G. Guthridge
Administrative Law Judge